IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 821 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHAGWATIKUMAR RANCHHODLAL PATEL - Petitioner(s)

Versus

BOMBAY FOODS PVT LTD & 1 - Respondent(s)

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Appearance :

MR NK MAJMUDAR for Petitioner No(s).: 1.

MR SHUKLA for NANAVATI & NANAVATI for Respondent No(s).: 1.
RULE SERVED for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 04/08/2005

ORAL JUDGMENT

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1.0 The petitioner has challenged the award dated 22.03.1999 passed by the Industrial Tribunal, Surat, in

Reference (IT) No. 83 of 1996, whereby the said reference was rejected.

2.0 The brief facts of the case are that the petitioner herein was employed in the workshop of the respondent Company for doing the work of job inspection and machining. It is the case of the petitioner that on 25.02.1992, the petitioner was discontinued from the work of job inspection and machining and was asked to do the work of sweeping and cleaning in the canteen, which was adopted to thwart the union activities of the petitioner.

2.1 Against the said action, the petitioner raised a dispute, which, ultimately, culminated into a reference being Reference No. 116 of 1992. The said reference was decided in favour of the respondent Company.

2.2 Pursuant to the above, the petitioner raised another industrial dispute which came to be referred to the Labour Court by way of a reference being Reference No. 83 of 1996. The Labour Court by impugned award dated 22.03.1999 rejected the said reference of the petitioner. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. Having gone through the impugned award, I am of the opinion that the Labour Court has rightly rejected the reference of the petitioner since there was no change in the conditions of work. I am in complete agreement with the reasonings given by and the findings arrived at by the Labour Court in its award. No case is made out for interference by this Court.

3.1 The decision relied upon by Mr. Shukla in the case of Orissa State Warehousing Corporation Ltd. v. Orissa State Warehousing Corporation Employees' Union and another reported in 1994 Supp (2) S.C.C. pg. 488 is relevant. The following observations made in Para 3 of the said decision are relevant for our purpose. It reads as under;

> “3. ..... The High Court by its impugned decision dealt with the challenge based on Section 9-A of the Act and came to the conclusion that inasmuch as the amendment related to Item 7 of Schedule 4 of the Act, it was hit by the provisions of Section 9-A and hence a notice of change was necessary before the amendment was effected. For coming to this conclusion, the High Court held that the proposed change related to the “Classification and Grades”. We are afraid that the High Court has misconstrued the said amendment. We have already quoted the amendment

> which shows that all that was sought to be done by it was to constitute the employees holding posts other than those specifically mentioned therein in the category of Grades-II, III and IV, into a separate cadre each and to make the employees holding the posts in the said cadre, transferable to the other posts in the same cadre. No new categories or grades were being created. The High Court is, therefore, clearly wrong in its construction of the amendment. We, therefore, set aside the said findings."

4.0 In above view of the matter, the petition deserves to be dismissed. The petition is, accordingly, dismissed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

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